

1  
2  
3  
4  
5 IN THE UNITED STATES DISTRICT COURT  
6 FOR THE DISTRICT OF ARIZONA  
7

8 David A. Diehl,

9 Petitioner,

10 vs.

11 Craig Apker,

12 Respondent.  
13

No. CV-12-788-TUC-JGZ

**ORDER**

14 Pending before the Court is a Report and Recommendation issued by United  
15 States Magistrate Judge D. Thomas Ferraro that recommends granting Respondent's  
16 Motion to Dismiss and denying Petitioner's habeas petition filed pursuant to 28 U.S.C.  
17 §2241. (Doc. 21.) As thoroughly explained by Magistrate Judge Ferraro, Petitioner is  
18 not entitled to relief as he failed to exhaust his administrative remedies prior to filing his  
19 Petition. As Petitioner's objections do not undermine the analysis and proper conclusion  
20 reached by Magistrate Judge Ferraro, Petitioner's objections are rejected and the Report  
21 and Recommendation is adopted.

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 Accordingly, IT IS HEREBY ORDERED as follows:

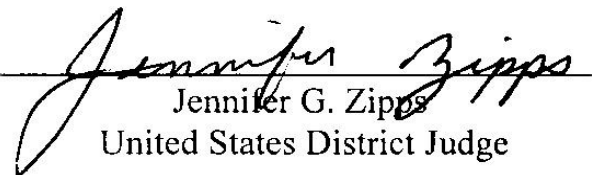
2 (1) The Report and Recommendation (Doc. 21) is accepted and adopted;

3 (2) The Motion to Dismiss filed by Respondent on January 1, 2013 (Doc. 12) is  
4 GRANTED;

5 (3) Petitioner's §2241 Petition (Doc. 1) is denied and this case is dismissed without  
6 prejudice for failure to exhaust;

7 (4) The Clerk of the Court shall enter judgment accordingly and close the file in this  
8 matter.

9 Dated this 28th day of August, 2013.

10  
11  
12   
13 Jennifer G. Zipps  
14 United States District Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28